

From: Mia, Marcia

Sent: Monday, February 11, 2019 10:51 PM

To: Engels, Alan; Kaminer, Joan

Subject: RE: OOOOa FOIA FW: FOIA Request EPA-R8-2019-001669 - Suspense for response February 22, 2019

Thank you Alan. Have you been working with Christopher Creech in the FEATLO office? We can do a call with him, if it would be helpful.

Marcia B Mia

Air Branch

Office of Compliance

2227A WJCS

U.S. Environmental Protection Agency

202-564-7042

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From: Engels, Alan

Sent: Monday, February 11, 2019 5:39 PM

To: Mia, Marcia <Mia.Marcia@epa.gov>; Kaminer, Joan <Kaminer.Joan@epa.gov>

Subject: OOOOa FOIA FW: FOIA Request EPA-R8-2019-001669 - Suspense for response February 22, 2019

Marcia / Joan:

Ex. 5 Deliberative Process (DP)

In December the fee waiver request and expediated processing requests were denied. I have spoken to the requester since we returned about expected costs and options, but have not yet received a response on how he would like to proceed.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

which I sent today.

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Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Alan Engels

Regional FOIA Officer

US EPA, Region 8

1595 Wynkoop St.

8TMS-IMP-CMU

Denver, CO 80202

(303) 312-6306

Engels.alan@EPA.gov

From: Engels, Alan

Sent: Monday, February 11, 2019 3:28 PM

To: 'pzalzal@edf.org' <pzalzal@edf.org>

Cc: Rivera, Adrienne <Rivera.Adrienne@epa.gov>

Subject: FOIA Request EPA-R8-2019-001669 - Suspense for response February 22, 2019

Dear Mr. Zalzal,

Please accept my apology for not sending this email sooner. I wanted to send a summary of our conversation last week.

I will provide comments in red to each of the areas directly relating to the request and then provide additional information below it. This will provide you with a better understanding of where we are and what can be expected. Comments regarding each portion are made at the end of each section in red.

The FOIA Request Reads:

(1) Copies of all reports submitted to EPA pursuant to Subpart 0000a's reporting requirements including, but not limited to, the following reports:

□ Results of the Performance Test, as required by 40 C.F.R. § 60.5420a(b)(9)(i); Semiannual Reports, as required by 40 C.F.R. § 60.5422a(a); 1 Annual Reports, as required by 40 C.F.R. § 60.5420a(b); and Annual Reports of Excess Emissions for Sweetening Units, as required by 40 C.F.R. § 60.5423a(b). Are you seeking from all EPA Offices or Only EPA Region 8? If documents submitted by operators contain an assertion of CBI, are you interested in moving forward with the CBI Determination process once the responsive documents that can be released are complete. It is important that you understand this process can take up to 2 years, is separate from the FOIA Request itself, and all costs associated with this process will be charged to you. When

indicating how you would like to proceed with the CBI Determination, it is important that you acknowledge the costs associated with the process.

(2) Copies of all internal correspondence and all correspondence between EPA and outside parties containing reference to the new source performance standards for the oil and gas sector, Subpart 0000a, or any of the specific reports or regulatory provisions listed above in paragraph (1) of this request; and containing one or more of the following terms:

- "comply," including any inflection thereof (e.g., "complies," "complying," "compliant," or "compliance");
- "deadline" or "deadlines";
- "delay," including any inflection thereof (e.g., "delays," "delayed," or "delaying");
- "due";
- "enforce," including any inflection thereof (e.g., "enforces," "enforcing," or "enforcement");
- "extend," including any inflection thereof (e.g., "extends," "extending," "extension," or "extensions");
- "postpone," including any inflection thereof (e.g., "postpones," "postponed," "postponing," or "postponement"); or
- "variance" or "variances."

Is the search for email records limited to Region 8 or for all EPA Offices? Once we are able to determine the scope, we will begin to gather information on who in these offices might have responsive documents.

The use of common terms as provided will produce a large volume of documents that would not be responsive to your request. In order for us to begin gathering these emails, EPA needs to verify the date range for the emails to be collected, discuss with you a revised method of search terms that would provide us a better universe of collected documents. If no such modification is received, EPA would respond that the search is too broad for us to locate documents responsive to your request.

On November 1, 2017, EDF submitted a separate FOIA request seeking EPA records that relate to 0000a reporting and correspondence. The November 2017 request, which EPA docketed as number EPA-HQ-2017-001268, covered records produced, modified, or transmitted since January 20, 2017. The scope of the November 2017 request was narrowed on January 31, 2018 and the instant request may be similarly limited by: excluding any reports required by 40 C.F.R. § 60.5423a(b) if no reports have been submitted pursuant to this regulation; excluding reports of Performance Tests conducted by the manufacturer and reported.

Our office sees that your request for Fee Waiver has been denied. We cannot proceed until fee limit has been increased or the fee waiver denial issue is resolved. EPA cannot complete processing of this request without it. As discussed the overall costs to search and review for documents from all EPA Offices (excluding CBI Determination) is expected to be between \$5,000 and \$10,000 to complete and will likely take more than 9 months to complete our response.

If you wish to have the fee waiver reconsidered, please send me an email with additional information in PDF format, on letterhead, with your request to have it reconsidered with any additional information. I will then submit it to our HQ office for reconsideration.

Once we have a better understanding of the overall request, we would like to discuss and obtain your approval on a timeline for our response. This will provide EPA staff with a better understanding of what will be produced for each portion of the response and when we have agreed to provide you this information.

If we do not hear from you on how you would like to proceed by February 22, 2019, we will close out the request for non-response to our request to increase the fee limit. If you need additional time to respond, you must request the additional time before we begin the closeout process.

If you would like to withdraw the current request to allow time to work with us to prepare a more targeted request, please reply to this email and indicate that you wish to WITHDRAW this request.

If you have any questions, please feel free to contact me at 303-312-6306 or replying to this email.

Once again, please accept my apology for not getting this out sooner. Our offices have been very busy responding to inquiries and processing requests since our office re-opened from the recent lapse of federal funding between December 28, 2018 and January 25, 2019.

Alan Engels

Regional FOIA Officer

US EPA, Region 8

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